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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Amendment of Rules Governing )  
800 MHz Specialized Mobile Radio )  
Service Systems to Permit )  
Licensing of Wide-Area Block )  
Authorizations )

RM-8117

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: The Commission

**REPLY COMMENTS  
OF THE  
NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.**

The National Association of Business and Educational Radio, Inc. ("NABER"), pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. § 1.401, hereby respectfully submits its Reply Comments in response to Comments filed in support or opposition of the Petition for Rule Making filed by the American Mobile Telecommunications Association, Inc. ("AMTA") in the above-captioned proceeding.<sup>1</sup>

**I. BACKGROUND**

In its Petition for Rule Making, AMTA asks the Commission to initiate a rule making and modify Part 90 of the rules to license wide-area Specialized Mobile Radio ("SMR") systems under block authorizations. A wide-area system would be able to operate within established boundaries defined by Metropolitan Statistical Areas ("MSA") and Rural Statistical Areas ("RSA") as utilized in the licensing of cellular systems. Two different procedures were

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<sup>1</sup>Report No. 1918, released November 20, 1992.

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proposed to create these block authorizations. In urban areas (areas in which less than 42 800 MHz SMR channels were available for assignment in the MSA/RSA), a licensee or group of licensees with existing, constructed systems could apply for a block license to operate all currently authorized channels throughout the authorized MSA/RSA (allowing for continued interference protection to existing co-channel licensees). In rural areas, current licensees could use the consolidation method proposed for urban areas, and AMTA recommended that the Commission also establish two block authorization, each assigned 42 800 MHz SMR channels, to be licensed by lottery.

In the urban areas, the block licensees would be required to construct and place in operation at least 20% of the authorized channel using advanced technologies covering 75% of either the population or the land area of the market within 5 years. The rural licensees of the newly-created 42 channel block authorizations would be required to construct 20% of the authorized channels using advanced technologies somewhere within the defined area within one year of grant or forfeit the license. AMTA proposed that the block licensee could construct a base station and notify the Commission upon construction.

In its Comments, NABER reiterated its support for the concept of block authorizations to encourage the implementation of spectrum-efficient, technically-advanced, wide-area SMR systems. However, NABER expressed its concerns that the Commission balance the needs of the entrepreneurs who wish to consolidate markets with

the needs of the small business entrepreneurs who wish to remain independent. NABER concurred that the current Commission rules are an impediment to the implementation of the next generation of technically-advanced equipment. Accordingly, NABER encouraged the Commission to initiate a comprehensive review and revision to Subpart S of Part 90 of the Commission's rules.

In addition to NABER's pleading, the Commission received only three other Comments in this proceeding: Utilities Telecommunications Council ("UTC"), Fleet Call, Inc., and Council of Independent Communication Suppliers ("CICS"). Fleet Call and CICS generally supported the proposals set forth in AMTA's petition. UTC made no comments on the merits of AMTA's proposals, but suggested the Commission require SMR licensees acquiring block authorizations (by consolidating currently authorized SMR station authorizations) to discontinue operation on Industrial/Land Transportation channels obtained pursuant to intercategory sharing one year after the block license grant.<sup>2</sup> NABER takes this opportunity to reply to UTC's recommendation.

## II. REPLY COMMENTS

UTC recommended that the Commission prohibit use of Industrial/Land Transportation ("I/LT") frequencies by wide-area SMR systems operating under block authorizations. UTC suggested that the Commission require SMR licensees to discontinue operation on the I/LT frequencies one year after grant of the block license, and that systems authorized a block license not be eligible to

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<sup>2</sup> See 47 C.F.R. § 90.621(g).

obtain I/LT frequencies through intercategory sharing to expand the capacity of the system. UTC argued that the block authorizations will increase the capacity of the SMR systems sufficiently to permit the recovery of the out-of-category frequencies for use by utilities and other I/LT service pool eligibles.

NABER agrees that, should the Commission initiate a rule making proceeding based on AMTA's petition, the Commission must address the manner in which a block licensee may expand the capacity of the SMR system with the addition of frequencies -- SMR pool frequencies or otherwise. The basis for intercategory sharing is to permit underutilized spectrum in one service pool to be utilized by eligibles to expand operational systems in another service pool in which no spectrum is available. NABER does not agree with UTC that licensees obtaining block authorizations should be precluded from continued use of constructed and operational out-of-category frequencies or from expanding the capacity of an operational system with out-of-category frequencies that are not being utilized. In areas where newly-created block authorizations are created, there also should be sufficient spectrum still available for I/LT radio service eligibles use.

Further, creation of the technically-advanced systems should reduce the requirement for spectrum from the non-SMR pools in markets where conversion to these more advanced systems are made. A threat to reduce the frequencies available to implement the technically advanced system may hamper the development of these systems in markets where non-SMR spectrum is currently available.

UTC's proposal could deter SMR operators from converting to the more spectrum-efficient operations. The continued operations of analog systems may increase the operators need for additional spectrum in these markets, and further decrease the spectrum available to I/LT and Business radio service eligibles for future telecommunications requirements. Accordingly, NABER does not favor UTC's proposal to prohibit the use of existing, constructed I/LT service pool frequencies upon conversion of independent authorizations to a block authorization.

### III. CONCLUSION

**WHEREFORE**, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

**NATIONAL ASSOCIATION FOR BUSINESS  
AND EDUCATIONAL RADIO, INC.**

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Date: January 5, 1993

**CERTIFICATE OF SERVICE**

I, Ruth A. Buchanan, a secretary in the law offices of Meyer, Faller, Weisman & Rosenberg, P.C. hereby certify that I have on this 5th day of January, 1993 sent via first class mail, postage prepaid, a copy of the foregoing "Reply Comments" to the following:

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